

THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

COMMONWEALTH OF
PENNSYLVANIA,

Plaintiff,

v.

NAVIENT CORPORATION, et al.,

Defendants.

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3:17-CV-1814
(JUDGE MARIANI)

ORDER

AND NOW, THIS 5th DAY OF MARCH, 2019, upon consideration of

Defendants' Motion for Certification (Doc. 53) and the briefing of the parties (Doc. 54, Doc.

57, Doc. 59), **IT IS HEREBY ORDERED THAT** the Motion for Certification is **GRANTED AS**

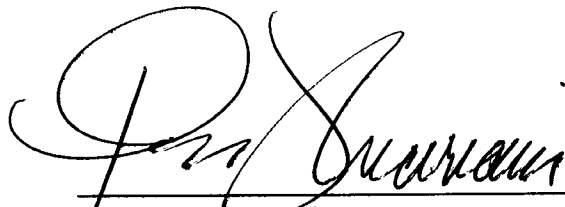
FOLLOWS:

1. The Court's December 17, 2018 Order denying Defendants' motion to dismiss Plaintiff's complaint (Doc. 48) is **CERTIFIED** to the Court of Appeals for review pursuant to 28 U.S.C. § 1292(b). The following issues are **CERTIFIED** for review as presenting controlling questions of law as to which there are substantial grounds for difference of opinion and as to which an immediate appeal from the December 17, 2018 Order may materially advance the ultimate termination of the litigation:
 - a. Whether the Consumer Financial Protection Act, 12 U.S.C. § 5552(a)(1), prohibits "copycat" claims brought by a state when the Consumer Financial

Protection Bureau has its own parallel lawsuit against the same defendants regarding the same conduct;

- b. Whether the Higher Education Act, 20 U.S.C. § 1098g, preempts state law claims brought under the Pennsylvania Unfair Trade Practices and Consumer Protection Law (“CPL”), 73 Pa. Stat. and Cons. Stat. Ann § 201-1, *et seq.* challenging Defendants’ student loan servicing practices; and
- c. Whether the Commonwealth has adequately pled a claim for relief under the CPL regarding Navient’s subprime student loan origination practices where all the factual allegations relate to past misconduct (Doc. 1 ¶¶ 45-93) and where the only allegations of ongoing or prospective conduct are limited to statements that Navient “[is] using, [has] used, or [is] about to use methods, acts or practices declared unlawful by Section 201-3 of the [CPL],” and that “citizens of the Commonwealth are suffering and will continue to suffer harm” absent injunctive relief (Doc. 1 ¶¶ 5, 12).

- 2. Pursuant to 28 U.S.C. § 1292(b), within ten days of entry of this Order, Defendants must submit an application to the Court of Appeals.


Robert D. Mariani
United States District Judge